

FILED 06 AUG 28 11:44AM '06 USDC ORP

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

**MICHAEL P. DUNDON,**

**05-CV-6262-PK**

**Plaintiff,**

**ORDER**

**v.**

**JO ANNE B. BARNHART,  
Commissioner, Social Security  
Administration,**

**Defendant.**

**DREW L. JOHNSON**

Drew L. Johnson, PC  
1700 Valley River Drive  
Eugene, OR 97405  
(541) 434-6466

**KATHRYN TASSINARI**

Harder Wells Baron & Manning, PC  
474 Willamette Street, Suite 200  
Eugene, OR 97401  
(541) 434-6466

Attorneys for Plaintiff

**KARIN J. IMMERGUT**

United States Attorney

**NEIL J. EVANS**

Assistant United States Attorney

1000 S.W. Third Avenue, Suite 600

Portland, OR 97204

(503) 727-1000

**MICHAEL McGAUGHRAN**

Regional Chief Counsel

**JOHANNA VANDERLEE**

Special Assistant United States Attorney

Social Security Administration

701 Fifth Avenue, Suite 2900 MS/901

Seattle, WA 98104-7075

(206) 615-2271

Attorneys for Defendant

**BROWN, Judge.**

Magistrate Judge Paul Papak issued Findings and Recommendation (#16) on June 30, 2006, in which he recommended this Court reverse the Commissioner's decision and remand this matter for the immediate award of benefits. The Commissioner filed timely objections to the Findings and Recommendation. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). See also *United States v. Bernhardt*, 840 F.2d 1441, 1444 (9<sup>th</sup> Cir. 1988); *McDonnell Douglas*

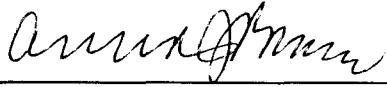
*Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9<sup>th</sup> Cir. 1981), cert. denied, 455 U.S. 920 (1982). This Court has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

**CONCLUSION**

The Court **ADOPTS** Magistrate Judge Papak's Findings and Recommendation (#16) and, accordingly, **REVERSES** the Commissioner's decision and **REMANDS** this case to the Commissioner pursuant to sentence four of 42 U.S.C. § 405(g) for the immediate award of benefits.

IT IS SO ORDERED.

DATED this 28<sup>th</sup> day of August, 2006.

  
\_\_\_\_\_  
ANNA J. BROWN  
United States District Judge